

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

Donald B. Cook, Facilitator #1;)	
Facilitator #2; Facilitator #3;)	
Facilitator #4; Facilitator #5;)	
Facilitator #6; Facilitator #7;)	
)	
Plaintiffs,)	Civil Case No. 00-6050-HO
)	
Vs.)	RESPONSE TO
)	MOTION TO DISMISS
The United States of America.)	
)	
Defendant.)	
)	

1. **CLARIFICATION.** When this petition was filed, it was not my intention to sue the United States of America nor did I seek any type of restitution. I had questions concerning elements of the proposed amendment which I wanted to get answers for. U. S. Attorney Jim Sutherland has done an excellent job of presenting the criteria and legal arguments for why the Court should dismiss this request **AND** I still have the same questions.

2. **THE PARABLE.** There once was a farmer who had three daughters; a blonde, a brunette, and a redhead. The farmer died and in his will, he left the farm to be equally shared and operated by the three daughters. The blonde was to be responsible for making the rules and spending the money. The brunette was responsible for the overall operation and security of the farm. The redhead was charged with maintaining a balance between all three daughters and making fair and impartial decisions concerning the actions of the other two sisters. Wisely, the farmer also placed in the will a provision whereby the workers on the farm had the ability to change the will if a majority felt that

any or all of the daughters had abused or misused their positions. As the farmer had feared, the blonde and her managers took really good care of themselves and racked up an enormous debt for the farm. The blonde just expected the workers to keep reducing their pay to finance her spending habits. The brunette also protected herself and her managers and spent what the blonde gave her like there was no tomorrow. Both the blonde and the brunette respected the power of the redhead. The redhead felt that as long as she made a good faith effort to fulfill her father's wishes in the will that she was doing her job. Eventually, the workers decided that the only way to change life on the farm for the better, was to change the will. Some of the proposed changes actually went against a few of the decisions that the redhead had already made. The workers asked the redhead to review and make recommendations to the proposed changes in the will. She refused stating that she did not, based on past records, have the authority under the will to comment or make a ruling. To make a long story short, the workers got together, changed the will and the redhead sued them in court contesting on the grounds that some of the items she had already ruled invalid were added into the will. The only problem was the fact that the redhead ran the court and ruled against the workers. Who was right and who was wrong?

3. **QUESTION #1.** In the MEMORANDUM OF LAW and the MOTION TO DISMISS, the attorney for the defendant makes a very strong case against the Court even reviewing the proposed amendment let alone making recommendations. This is based upon the separation of powers principle from the Constitution and case histories developed over time. The plaintiff argues that this situation is very different from any the Court has ever encountered. Does an attempt by an entity outside of the three branches

of the federal government to amend the Constitution preclude the Courts from reviewing the proposal and making recommendations? Does a dismissal of this particular case prevent the Court from ruling on material matter at a later date?

4. **QUESTION #2.** At what point, if any, would the Court step into the amendment process when an item is included in the proposed amendment which the Court has already been ruled unconstitutional. On page 7, Section 11, of the proposed amendment, the President is given line-item-veto power on appropriation bills. The Court has already ruled this action unconstitutional. Can this item become part of the Constitution when it has already been ruled unconstitutional and if not, when would the Court intercede?

5. **QUESTION #3.** The plaintiff views the Governor's Veto, Page 8, Section 12. of the proposed amendment as one of the most important items in the proposal. Would this veto power also be unconstitutional, and if so, why?

6. **QUESTION #4.** With regard to the defendants assertion in the MEMORANDUM OF LAW, page 3 beginning at line 16; "Specifically, Congress is the exclusive branch of government controlling the promulgation of the adoption of a Constitutional Amendment, and has the final determination of questions regarding the method of adoption". Does this statement defer to the Congress the power to control the promulgation of an amendment that is originated through the state legislatures and not through the Congress? A reading of Article 5 of the Constitution would lead a person to conclude otherwise. Would the Congress have to approve Section 26 of the proposed amendment before or after two-thirds of the several States petitioned the Congress for the calling of a Constitutional Convention?

7. **CONCLUSION:** Based on the questions and concerns raised in this response, the case should be reviewed.

Dated June 7, 2000.

Donald B. Cook

1057 Waverly Street
Eugene, Oregon 97401

541.687.9497

Facilitator 01@AOL.Com

CERTIFICATE OF SERVICE

I, Donald B. Cook, certify that a true copy of the RESPONSE TO MOTION TO DISMISS was served on the office of the United States Attorney, District of Oregon, 701 High Street, Eugene, Oregon 97401 on June 7, 2000.

Donald B. Cook
Plaintiff